

REMARKS

In the Office Action¹, the Examiner took the following actions:

- 1) rejected claims 59-66 under 35 U.S.C. § 101 as being directed to non-statutory subject matter;
- 2) rejected claims 43, 44, 48-52, 56-59, 62-66, 69-75, and 79-88 under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent Application Publication No. 2005/0278771 to Hassell et al. ("*Hassell*") in view of U.S. Patent No. 6,588,015 to Eyer et al. ("*Eyer*") and further in view of U.S. Patent No. 6,807,367 to Durlach ("*Durlach*");
- 3) rejected claims 45, 53, and 76 under 35 U.S.C. § 103(a) as unpatentable over *Hassell* in view of *Eyer* and *Durlach* and further in view of U.S. Patent Application Publication No. 2003/0088872 to Maisel et al. ("*Maisel*"); and
- 4) rejected claims 47, 55, and 78 under 35 U.S.C. § 103(a) as unpatentable over *Hassell* in view of *Eyer* and *Durlach* and further in view of U.S. Patent No. 6,323,911 to Schein et al. ("*Schein*").

By this Amendment, Applicant amends claims 43, 51, 59, and 74. Support for the amendments may be found in the specification at, for example, page 50, line 29 to page 53, line 9 and Fig. 10. Applicant respectfully traverses the rejections in the Office Action for at least the following reasons.

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

I. Rejection of Claims 59-66 under 35 U.S.C. § 101

Applicant has amended claim 59 to recite "[a] non-transitory computer-readable medium" which does not include a signal per se. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 101 rejection of claim 59, as well as claims 60-66 dependent therefrom.

II. Rejection of Claims 43, 44, 48-52, 56-59, 62-66, 69-75, and 79-88 under 35 U.S.C. § 103(a)

Applicant respectfully traverses the rejection of claims 43, 44, 48-52, 56-59, 62-66, 69-75, and 79-88 under 35 U.S.C. § 103(a).

The Office Action has not properly resolved the *Graham* factual inquiries, as required to establish a framework for an objective obviousness analysis. See M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In particular, the Office Action has not properly ascertained the differences between the claimed invention and the prior art, at least because the Office Action has not interpreted the prior art and considered both the invention and the prior art as a whole. See M.P.E.P. § 2141(II)(B).

Independent claim 43 recites a content reproducing system comprising, among other things:

a button that performs both of the following two functions:

(1) causing the selection means to jump from the first position within the first content item immediately subsequent to the current replay position to the second position without accessing the intervening contents between the first

position and the second position, thereby selecting the second position within the first content item as the next replay position, and

(2) causing the selection means to skip past the current replaying position in the first content item directly to the beginning of second content item as the next replay position

(Emphasis added).

Hassell, Eyer, and Durlach, taken either alone or in combination, fail to teach or suggest at least these elements.

Hassell discloses an interactive television program guide system provided with digital storage, that allows users to store information associated with recorded programs in a directory in a digital storage device. *Hassell*, Abstract. However, as conceded on pages 4-5 of the Office Action, *Hassell* fails to disclose a button that performs both selecting a position within one of the programs and skipping directly to the beginning of another program. Moreover, *Hassell* also not teach or suggest "a button that performs both of the following two functions: (1) causing the selection means to jump from the first position within the first content item immediately subsequent to the current replay position to the second position without accessing the intervening contents between the first position and the second position, thereby selecting the second position within the first content item as the next replay position, and (2) causing the selection means to skip past the current replaying position in the first content item directly to the beginning of second content item as the next replay position," as recited in independent claim 43.

Eyer does not cure the deficiencies of *Hassell*. For example, *Eyer* discloses a digital broadcast system that provides interactive features such as skip forward and skip

backward. See *Eyer*, Abstract. *Eyer* further discloses that a FAST FORWARD and a SKIP button which, may be combined, such that the desired function is achieved by pressing the button for a "specific duration." See *Eyer*, col. 8, lines 19-24. However, while *Eyer*'s FAST FORWARD function plays subsequent portions of the current track, the FAST FORWARD function does not jump from one position to another position within the track without accessing intervening contents between the two positions. See *Eyer*, col. 7, lines 50-58. Rather, as understood by those skilled in the art, *Eyer*'s FAST FORWARD function merely moves through subsequent positions of the track more quickly than the track would normally play, while going through each intervening contents between positions within the track. See *Id.*

Therefore, *Eyer* does not teach or suggest "a button that performs both of the following two functions: (1) causing the selection means to jump from the first position within the first content item immediately subsequent to the current replay position to the second position without accessing the intervening contents between the first position and the second position, thereby selecting the second position within the first content item as the next replay position, and (2) causing the selection means to skip past the current replaying position in the first content item directly to the beginning of second content item as the next replay position," as recited in independent claim 43.

Durlach fails to cure the deficiencies of *Hassell* and *Eyer*. For example, *Durlach* discloses a viewing method for progressing through a movie sequence using a dial. *Durlach*, Abstract. *Durlach* also discloses that the movie advances more slowly or more quickly depending on how quickly a user rotates a dial, and a "current location indicator 206" that indicates where the user has advanced to within the movie. *Durlach*, col. 13,

lines 1-18 and FIG. S4. However, *Durlach* does not teach or suggest “a button that performs both of the following two functions: (1) causing the selection means to jump from the first position within the first content item immediately subsequent to the current replay position to the second position without accessing the intervening contents between the first position and the second position, thereby selecting the second position within the first content item as the next replay position, and (2) causing the selection means to skip past the current replaying position in the first content item directly to the beginning of second content item as the next replay position,” as recited in independent claim 43..

For at least the reasons set forth above, the Office Action has not properly ascertained the differences between the claimed invention and the prior art, and no *prima facie* case of obviousness has been established with respect to claim 43. Independent claims 51, 59, and 74, while of different scope, recite elements similar to those of claim 43 and are thus allowable over *Hassell*, *Eyer*, and *Durlach* for at least similar reasons discussed above with respect to claim 43. Claims 44, 48-50, 52, 56-58, 62-66, 69-73, 75, and 79-88 each depend from one of the independent claims, and are thus allowable over *Hassell*, *Eyer*, and *Durlach* at least due to their dependence.

III. Rejection of Claims 45, 53, and 76 under 35 U.S.C. § 103(a)

Applicant respectfully traverses the rejection of claims 45, 53, and 76 under 35 U.S.C. § 103(a). Claim 45 depends from claim 43, claim 53 depends from claim 51, and claim 76 depends from claim 74. As already discussed, *Hassell*, *Eyer*, and *Durlach* fail to teach or suggest certain features of claim 43, 51, and 74.

Maissel fails to cure any of the deficiencies of *Hassell* and *Eyer*. *Maissel* discloses, "[i]n a digital television recording method, programs are selected for recording based on analysis of program schedule information, user preferences, and the priority of previously recorded programs." *Maissel*, Abstract. *Maissel* also discloses a "NEXT" button that can be used to browse forward through the stored programs (*Maissel*, ¶ 368). However, *Maissel* does not disclose that the "NEXT" button performs two functions analogous to claimed functions (1) and (2). Therefore, *Maissel* does not teach or suggest "a button that performs both of the following two functions: (1) causing the selection means to jump from the first position within the first content item immediately subsequent to the current replay position to the second position without accessing the intervening contents between the first position and the second position, thereby selecting the second position within the first content item as the next replay position, and (2) causing the selection means to skip past the current replaying position in the first content item directly to the beginning of second content item as the next replay position," as recited in independent claim 43, and the similar features of independent claims 51 and 74.

For at least the reasons discussed above, claims 45, 53, and 76 are allowable over the cited references, at least due to their dependence from allowable base claims.

IV. Rejection of claims 47, 55, and 78 under 35 U.S.C. § 103(a)

Applicant respectfully traverses the rejection of claims 47, 55, and 78 under 35 U.S.C. § 103(a). Claim 47 depends from claim 43, claim 57 depends from claim 51, and claim 78 depends from claim 74. As already discussed, *Hassell*, *Eyer*, and *Durlach* fail to teach or suggest certain features of claim 43, 51, and 74.

Schein discloses a "television schedule system and method" using an "input device [that] allows the viewer to browse through the schedule information area." *Schein*, Abstract. *Schein* also discloses a "local controller" with a "horizontal scroll mechanism for moving the cursor in an 'x' direction or horizontally across the display screen ... buttons 32, 34 can be configured so that continuous depression of one button 32, 34 moves the cursor horizontally through a plurality of items." *Schein*, col. 5, lines 45-59. However, *Schein* does not teach or suggest "a button that performs both of the following two functions: (1) causing the selection means to jump from the first position within the first content item immediately subsequent to the current replay position to the second position without accessing the intervening contents between the first position and the second position, thereby selecting the second position within the first content item as the next replay position, and (2) causing the selection means to skip past the current replaying position in the first content item directly to the beginning of second content item as the next replay position," as recited in independent claim 43, and the similar features of independent claims 51 and 74.

For at least the reasons discussed above, claims 47, 55, and 78 are allowable over the cited references, at least due to its dependence from allowable base claims.

V. Conclusion

In view of the foregoing, Applicant respectfully requests reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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